

Council Procurement Activity – Post-COVID-19 Lockdown – Operational Changes

(Chairman Ian Marshall) (Report prepared by G Townsend)

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Purpose of report

1. To gain Council support for a change of procurement focus and operational flexibility during an initial two year period immediately following the current COVID-19 lockdown.
2. To confirm Council's preference for supporting local contractors within certain parameters, during this same period.

Executive Summary

3. Council has a key role in the economic recovery from COVID-19. Its large infrastructure programme is a significant spend and that will greatly benefit the local economy.
4. Council has an existing Procurement Policy (last reviewed in 2019) which is designed to be a useful tool for staff. The policy meets the best practice guidelines of the Office of the Auditor General (OAG) and the requirements of the Local Government Act (LGA) 2002.
5. The existing policy allows flexibility in approval and procurement processes. However as value and risk increase, there is a preference for open market tendering, to obtain the best value for money from the process.
6. Any tender between \$250,000 and \$750,000 recommends Council approval as part of the "Business Case" for any tender process and this is seen as more necessary for tenders over \$750,000.
7. Staff are seeking approval to modify the current approach to tendering, in order to provide preference to local contractors in the first instance where they can demonstrate they can achieve acceptable quality, a fair, competitive price and meet reasonable timeframes. This amended approach will apply to contracts up to \$1 million and, with additional approval, contracts above \$1 million and below \$25 million.
8. The modification to standard process would remain in place for two years, at which point a further review would be undertaken.

RECOMMENDATION:

That the Audit and Risk Committee recommends that Council agrees the "recovery period" operational guidance amendments to the existing Procurement Policy, for an initial period of two years.

Background/Context

9. Existing procurement policy allows significant flexibility around how Council goes to the market for competitive pricing and the supporting information for the capability and capacity of various suppliers and contractors.
10. This flexibility allows for direct negotiation and appointment where justified, for contracts up to \$250,000, subject to overriding requirements such as value for money and the outcomes being fit for purpose. This is covered in the particular procurement business case.
11. Above this value, the expectation is that some form of "open tendering" will be undertaken. In reality this means that as contract value increases, local suppliers are competing with the national supplier pool.

12. Given the extraordinary circumstances generated by COVID-19, central and local government, supported by economic advice, are seeking ways by which local suppliers and contractors can be supported within the local economy, as they try to remain viable coming out of the COVID-19 lockdown period.
13. Staff have analysed the various higher value capital projects coming up in the near future (with a particular focus on those up to around \$1 million) and have determined that there is capability, capacity and competition within the local market for most, if not all, of these contracts. There is also evidence that for contracts up to a \$1M, very few outside parties have been successful with their tenders.
14. Having competition within the local market is still seen as important in order to ensure value for money. However if there were contracts where only one or two local contractors had the capability or were available, staff are still able to ascertain independent price comparisons through mechanisms such as “engineer’s estimates”.
15. The analysis of future projects also shows that there is significant work becoming available in the “up to \$1 million” range to ensure Council would be providing a large volume of work to the local market, on top of contracts from other sectors.
16. In addition, local contractors are still able to compete for higher value contracts tendered to the open market and provide services as sub-contractors to larger national contractors working on local contracts.
17. Contracts above \$1 million include many that are more complex, but the focus can still be on the local market initially as a preferred option. The Business Case at this level would be “geared up” to cover the additional complexity, capacity and capability requirements as well as any increased levels of risk.
18. It is also proposed that the Business Case at this higher level would require approval from the Mayor or appropriate Committee chair and Chief Executive (or their nominee if they are away) at minimum.
19. With the support of Council, staff intend to work with various sector groups to maximise the opportunities coming to the market in the near future.
20. While each top of the south council is exploring various mechanisms and may settle on different value limits, all three are looking to adapt current procurement processes and policy to favour local contractors in the first instance. This is being planned in consultation with the local contractors and their representative organisation(s), while still ensuring prudent management of ratepayer funding.

Next steps

21. Communicate Council’s change of emphasis and focus on the local market for contracts up to \$1 million to relevant staff within Council, together with the “geared up” Business Case and approval requirements for contracts above this value.
22. Continue meetings with various contractors and their representative organisations to discuss Council’s strategy for tendering for the next two years.